



U.S. Department of Justice

United States Attorney
Eastern District of New York

JB:JL
F. #2007R00730

271 Cadman Plaza East
Brooklyn, New York 11201

March 13, 2008

By Hand Delivery
Submitted Under Seal

The Honorable Jack B. Weinstein
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Kevin McMahon

Dear Judge Weinstein:

Pursuant to Chief Judge Dearie's Administrative Order dated February 27, 2008 ("Administrative Order"), the government hereby certifies to the Court that the above-captioned case is properly related to United States v. Joseph Agate, et al., No. 08 CR 76 (JBW) ("Agate").

The Administrative Order provides in relevant part:

[N]otwithstanding any provision of Rule 50.3 of the Rules for the Division of Business Among District Judges, the Clerk of the Court is directed to assign all criminal cases randomly, unless the United States Attorney certifies in writing at the time of filing that a case to be assigned satisfies one of the three conditions in Rule 50.3(c), or involves the same specific conduct that is a subject of a pending case.

This letter constitutes the certification contemplated by the Administrative Order. As set forth below, relation is appropriate in this case pursuant to the Administrative Order because McMahon's case "involves the same specific conduct that is a subject" of Agate, to wit: two murders charged in Agate which are also to be charged in this case. (Administrative Order). Specifically, the McMahon information will charge McMahon with a racketeering predicate act concerning the October

1990 murder of Gambino family soldier Louis DiBono, who was shot and killed after DiBono repeatedly disobeyed the orders of Gambino family boss John J. Gotti to meet with him. McMahon was involved with Charles Carneglia and others in the DiBono murder, and the murder is already charged against Carneglia as Racketeering Act Six in Agate. In addition, the McMahon information will charge McMahon with a predicate act concerning the December 1990 murder of Jose Delgado Rivera. Rivera, an armored truck guard, was shot and killed during a robbery McMahon, Carneglia and others committed while robbing Rivera's armored truck, which was delivering money to the American Airlines building at John F. Kennedy International Airport. The murder is already charged against Carneglia as Racketeering Act Seven in Agate.

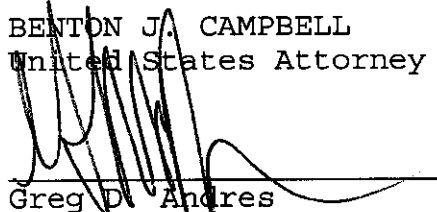
Accordingly, pursuant to the Administrative Order, McMahon's case "involves the same specific conduct that is a subject" of Agate and relation is therefore appropriate.¹ The government has notified counsel for McMahon, Stuart Grossman, Esq., and he joins in the government's request to relate this case to Agate.

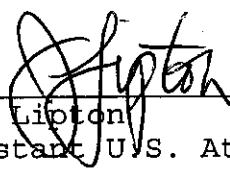
Due to the contents and nature of this letter, the government and McMahon request that it be filed under seal.

Respectfully submitted,

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cc: Stuart Grossman, Esq.

¹ On March 10, 2008, the government filed a notice pursuant to Rule 7(b) of the Federal Rules of Criminal Procedure that, in error, was randomly assigned, and was designated to Judge Irizarry. The government has withdrawn that notice.